that the evidence was properly admitted. *Morris & Co.* v. *Industrial Board*, 119 N. E. 944 (Ill.).

Workmen's compensation laws frequently exempt industrial boards from the common-law rules of evidence. See 1914, CONSOL. LAWS N. Y., c. 64, Art. 4, § 68; PAGE AND ADAMS, ANN. OHIO GEN. CODE, §§ 1465–44; BULLETIN NO. 203, U. S. BUREAU OF LABOR STATISTICS, 284. In Illinois, however, there is no such statutory provision, and so the common-law rules apply. *Victor Chemical Works* v. *Industrial Board*, 274 Ill. 11, 113 N. E. 173; *Goelitz Co.* v. *Industrial Board*, 278 Ill. 164, 115 N. E. 855. See 1917, HURD'S REV. STAT. ILL., c. 48, § 141. By the weight of authority in the United States a coroner's verdict is not admissible either in civil or criminal actions to prove the cause of death. *Ætna Life Ins. Co.* v. *Milward*, 118 Ky. 716, 82 S. W. 364; *Wasey* v. *Traveler's Ins. Co.*, 126 Mich. 119, 85 N. W. 459. Illinois, on the contrary, follows the early English rule, admitting the coroner's verdict as a judicial record and hence as an exception to the hearsay rule. *United States, etc. Ins. Co.* v. *Vocke*, 129 Ill. 557, 22 N. E. 467; *Armour & Co.* v. *Industrial Board*, 273 Ill. 590, 113 N. E. 138. See 15 HARV. L. REV. 664. The Illinois courts are apparently influenced by a statute which provides that coroner's verdicts shall be recorded. See 1917, HURD'S REV. STAT. ILL., c. 31, § 19. According to the Illinois doctrine, the decision in the principal case is therefore correct. On principle, however, the prevailing American rule seems preferable. In view of the hurried and careless manner in which inquests are frequently conducted, the coroner's verdict, though relevant in determining the cause of death, is of slight probative value and should not be excepted from the operation of the hearsay rule. *Germania Life Ins. Co.* v. *Ross Lewin*, 24 Colo. 43, 51 Pac. 488; *Kane* v. *Lodge*, 113 Mo. App. 104, 87 S. W. 547.

INJUNCTION — INVASION OF FRANCHISE RIGHT BY PUBLIC SERVICE CORPORATION HAVING NO LICENSE TO DO BUSINESS. — A public service commission had authority to license a duplication of service by a competing public utility if required by public necessity. An established and licensed telephone company sought to enjoin the defendant telephone company, which was beginning construction in the same municipality without a license from the commission. *Held*, that a permanent injunction was properly granted. *Farmers' & Merchants' Co-op. Telephone Co.* v. *Boswell Telephone Co.*, 119 N. E. 513 (Ind.).

The mere usurpation of a public privilege cannot, without more, constitute a private wrong to another public utility. *Jersey City Gaslight Co.* v. *Consumers' Gas Co.*, 40 N. J. Eq. 427, 2 Atl. 922; *Coffeyville M. & G. Co.* v. *Citizens' Natural M. & G. Co.*, 55 Kan. 173, 40 Pac. 326. But where the plaintiff's special interests or property rights are threatened, equity will grant relief. *Williams et al.* v. *Citizens' Ry. Co.*, 130 Ind. 71, 29 N. E. 408; *City Ry. Co.* v. *Citizens' St. Ry. Co.*, 166 U. S. 557, 17 Sup. Ct. Rep. 653; *Hudspeth* v. *Hall*, 111 Ga. 510, 36 S. E. 770; *Douglass's Appeal*, 118 Pa. St. 65, 12 Atl. 834. And a franchise is a contractual or proprietary right. *Bartlesville E. L. & P. Co.* v. *Bartlesville I. Ry. Co.*, 26 Okl. 453, 109 Pac. 228; *Millville Gas Co.* v. *Vineland L. & P. Co.*, 72 N. J. Eq. 305, 65 Atl. 504; *Louisville* v. *Cumberland T. Co.*, 224 U. S. 649, 32 Sup. Ct. Rep. 572. Moreover, an exclusive monopoly is universally considered a property right, and an illegal interference will be enjoined. *Croton Turnpike* v. *Ryder*, 1 Johns. (N. Y.) Ch. 611; *N. O. Gas Co.* v. *N. O. Light Co.*, 115 U. S. 650, 6 Sup. Ct. Rep. 252; *Atlantic City W. W. Co.* v. *Atlantic City*, 39 N. J. Eq. 367. A franchise not exclusive in its terms is exclusive against those having no license to compete, and should be dealt with similarly. *Delaware & R., etc. Co.* v. *Camden & A., etc. Co.*, 18 N. J. Eq. 546; *Millville Gas Co.* v. *Vineland L. & P. Co.*, *supra*. See *Patterson* v. *Wollmann*, 5 N. D. 608, 611, 67 N. W. 1040, 1042, and cases cited. See also

3 DILLON, MUNICIPAL CORPORATIONS, 1992. Moreover, the defendant's unauthorized construction of its poles and lines on a street or highway is a public nuisance. *Van Horne* v. *Newark P. Ry. Co.*, 48 N. J. Eq. 332, 21 Atl. 1034. And one suffering a pecuniary loss proximately resulting from a public nuisance may abate it in equity. *Griswold* v. *Brega*, 160 Ill. 490, 43 N. E. 864. Some courts have refused to grant an injunction because the plaintiff seeks to prevent competition. *Coffeyville M. & G. Co.* v. *Citizens' N. G. & M. Co.*, *supra; Baxter T. Co.* v. *Cherokee C. M. T. A.*, 94 Kan. 159, 146 Pac. 324. Public welfare especially requires that public utilities shall compete whenever conditions warrant it. *East St. L. Ry. Co.* v. *East St. L. U. Ry. Co.*, 108 Ill. 265. But free competition in the principal case would be subversive of the public interest, because adequate service there requires no duplication.

MALICIOUS PROSECUTION — CIVIL SUIT — ABSENCE OF ARREST OR SEIZURE. — In an action for malicious prosecution in a civil suit, where there had been neither arrest of the person of the plaintiff nor seizure of his property, *held*, that the plaintiff could recover. *Pearson* v. *Ashcraft Cotton Mills*, 78 S. W. 204 (Ala.).

Alabama, meeting this question for the first time, takes its place among the states allowing such recovery. The English rule, owing to the Statute of Marlbridge (52 HEN. III, c. 6), which allowed heavy costs *pro falso clamore* to the defendant in a civil action, denies such relief in a separate action for malicious prosecution. *Savile* v. *Roberts*, 1 Ld. Ray. 374. Formerly the weight of American authority was in accord with the English rule. *Wetmore* v. *Mellinger*, 64 Ia. 741, 18 N. W. 870; *Potts* v. *Imlay*, 4 N. J. L. 382. See cases cited in AMES'S and SMITH'S CASES ON TORTS, Pound's ed., 1917, 650. But now the weight of authority seems to have swung to the other side. *Kolka* v. *Jones*, 6 N. D. 461, 71 N. W. 558. On principle, American costs being meagre, the view of the principal case seems sound. The fear of multiplying litigation is without merit. To deny relief might often lead to persecution without remedy. See 9 HARV. L. REV. 538.

MASTER AND SERVANT — WORKMEN'S COMPENSATION ACT — CHARITABLE INSTITUTION. — An employee sued a purely charitable institution under the Act for injury by a buzz planer. The Massachusetts Workmen's Compensation Act in terms includes all employees, one clause specifically excepting farm laborers and domestic servants. MASS. STAT. 1911, c. 751, §§ 1, 2. *Held*, that charitable institutions are impliedly excepted. *Zoulalian* v. *New England Sanatorium & Benevolent Association*, 119 N. E. 686 (Mass.).

Charitable organizations are generally not liable for the negligence of servants or agents. *McDonald* v. *Mass. General Hospital*, 120 Mass. 432. In England the law is in some confusion as regards their liability at common law; hence a decision holding such an institution liable under the Act may not apply to the principal case. *MacGillivray* v. *Institute for The Blind*, 1911, S. C. 897, 48 Scot. L. R. 811. Public commissions managing essentially private or quasi-public enterprises have been held to come under the Act. *In re Ryan*, N. S. Wales St. Rep. 33; *Gilroy* v. *Makie*, 1909, S. C. 466, 46 Scot. L. R. But see *Brown* v. *Decatur*, 188 Ill. App. 147. The California Act specifically includes "the state . . . and all . . . having persons in service for hire." 1917 STAT. c. 2143, § 7. The Massachusetts court properly holds that the specific exemption of farm laborers and domestic servants does not necessarily imply that all other workmen are included. More doubtfully the court finds an implied exception in the general intent expressed in the law. The economic principle on which Workmen's Compensation Acts are often justified obviously would not apply to charitable institutions. Yet, as apparently in California, it may be thought that on humanitarian principles every enterprise should